

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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BANK OF AMERICA, N.A.,  
*Plaintiff,*

v.

BARNES HILL LLC, ALAN J.  
BANKART, DIANE K. BANKART, and  
JPMORGAN CHASE BANK, N.A.,  
*Defendants.*

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Civil Action No. 1: 16-cv-11583-DJC

**BANK OF AMERICA’S MOTION TO STRIKE  
AND WITHDRAW AN UNAUTHORIZED NOTICE OF APPEAL**

Bank of America, by and through counsel, hereby submits the instant Motion to Strike and Withdraw an Unauthorized Notice of Appeal, showing the Court as follows:

On July 10, 2019, an entity allegedly known as Bridgewater Capital TR, Bank of America TTEE (hereinafter “Bridgewater”) filed a purported Notice of Appeal concerning this Court’s May 13, 2019 Order. See Doc. 170. Bridgewater is not a party to this case, and has no interest in the subject matter of this litigation. Bridgewater is not authorized to file any motions (or take any action) on behalf of Bank of America.

The undersigned counsel has never heard of Bridgewater. Bank of America has confirmed that it has no relationship with Bridgewater. Upon review, it appears that Bridgewater is essentially a fraudulent entity created by a *pro se* litigant with sovereign citizen tendencies who is named Duane Letroy Berry.

The U.S. Court of Appeals for the Sixth Circuit is quite familiar with Bridgewater and Mr. Berry. In United States of America v. Duane Letroy Berry, the Sixth Circuit held that “Berry suffers from mental illness. He apparently believes that he is the trustee of a trust which owns all of Bank of America’s assets, and that it is his duty to execute the trust and repossesses those

assets . . . [f]or his part, Berry is convinced that, in addition to his status as a trustee of Bank of America's assets, he is a government agent and thus is immune from federal prosecution for any acts the government claims he has committed." United States v. Berry, 911 F.3d 354, 358 (6th Cir. 2018).

The United States District Court for the Eastern District of Michigan has also addressed Mr. Berry's behavior, and found that Mr. Berry suffers from a delusional disorder that manifests in his insistence "that he is, in fact, the primary trustee of Bridgewater Capital Trust, which owns Bank of America's assets." Berry v. Daly, No. 2:16-CV-14495, 2017 WL 410339, at \*1 (E.D. Mich. Jan. 30, 2017), appeal dismissed, No. 17-1379, 2017 WL 4804413 (6th Cir. May 12, 2017). Naturally, the Court concluded that "Berry's claims are patently frivolous." Id. at \*2.

In Duane Letroy Berry v. Bridgewater Capital, Mr. Berry asked the Court to enter an order that would award him "all of Bank of America's assets." Berry v. Bridgewater Capital, No. 3:17-CV-00013-GCM, 2017 WL 3431154, at \*1 (W.D.N.C. Feb. 8, 2017), *aff'd*, 692 F. App'x 690 (4th Cir. 2017). The court found that Mr. Berry's allegations were "plainly frivolous," and promptly dismissed his claims. Id.

A litigant "seeking relief in federal court must first demonstrate that he has standing to do so, including that he has a personal stake in the outcome." Gill v. Whitford, 138 S. Ct. 1916, 1923, 201 L. Ed. 2d 313 (2018). As Berry and Bridgewater have no personal interest or stake in Bank of America's assets or claims, it is readily apparent that Bridgewater and Berry lack standing to file the above-referenced Notice of Appeal on behalf of Bank of America.

Bank of America does not wish to appeal the Court's order of May 13, 2019, and requests that this Court enter an Order Striking or Withdrawing the unauthorized notice of appeal filed by Bridgewater and Mr. Berry.

Respectfully Submitted,

DREW ECKL & FARNHAM, LLP

/s/ Adam J. Beedenbender

Adam J. Beedenbender

Vivian B. Fisher

235 Peachtree St. NE

Suite 1900

Atlanta, Georgia 30303

[abeedenbender@deflaw.com](mailto:abeedenbender@deflaw.com)

Admitted *pro hac vice*

*Counsel for Bank of America*

HACKETT FEINBERG, P.C.

/s/ Richard Gentilli

Richard E. Gentilli, BBO # 189080

Lauren A. Solar, BBO # 657289

Jonathan Hixon, BBO # 692420

155 Federal Street, 9<sup>th</sup> Floor

Boston, MA 02110

Telephone: (617) 422-0200

Facsimile: (617) 422-0383

[JMH@bostonbusinesslaw.com](mailto:JMH@bostonbusinesslaw.com)

*Counsel for Bank of America*

8968666/1  
06264-110798

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have this day served a copy of the within and foregoing **BANK OF AMERICA'S MOTION TO STRIKE AND WITHDRAW AN UNAUTHORIZED NOTICE OF APPEAL** using the CM/ECF system, which will automatically send e-mail notification to the following attorneys of record:

Donald F. Borenstein  
Johnson & Borenstein, LLC  
12 Chestnut Street  
Andover, MA 01810  
Tel: 978-475-4488  
Fax: 978-475-6703  
[don@jblclaw.com](mailto:don@jblclaw.com)  
*Counsel for Chase*

Thomas B. Vawter  
P.O. Box 215  
Newton, MA 02468  
(781) 400.1978 (o)  
(781) 400.1979 (fax)  
[tbvawter@comcast.net](mailto:tbvawter@comcast.net)

*Counsel for Barnes Hill, LLC, Alan J. Bankart, and Diane K. Bankart*

This 10<sup>th</sup> day of July, 2019.

DREW ECKL & FARNHAM, LLP

/s/ Adam J. Beedenbender  
Adam J. Beedenbender  
235 Peachtree St. NE  
Suite 1900  
Atlanta, Georgia 30303  
[abeedenbender@deflaw.com](mailto:abeedenbender@deflaw.com)  
*Admitted pro hac vice*

*Counsel for Bank of America*

8968666/1  
06264-110798